

HABEN, CULPEPPER, DUNBAR & FRENCH

A PROFESSIONAL ASSOCIATION

ATTORNEYS AT LAW

306 NORTH MONROE STREET

TALLAHASSEE, FLORIDA 32301

BRAM D. E. CANTER
ROBERT S. COHEN
BRUCE CULPEPPER
PETER M. DUNBAR
JOHN FRENCH
RALPH H. HABEN, JR.
R. BRUCE MCKIBBEN, JR.

STEVEN T. MINDLIN
DARREN A. SCHWARTZ
NANCY BLACK STEWART

SPECIAL CONSULTANT
KARL R. ADAMS*

*NOT A MEMBER OF THE FLORIDA BAR

REPLY TO:
P.O. BOX 10085
TALLAHASSEE, FLORIDA 32302
TELEPHONE (904) 222-3533
TELECOPIER (904) 222-2126

February 3, 1993

Mr. Steve Tribble, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0850

via Hand Delivery

Re: Southern Bell Rate Case; Docket No. [REDACTED] TL

Dear Mr. Tribble:

Enclosed for filing please find an original and fifteen copies of Florida Cable Television Association's Revised Direct Testimony of Joseph P. Cresse Previously Filed on November 16, 1992, for the above-referenced docket. The Revised Direct Testimony is being filed as a result of the Prehearing Officer's striking of certain of Mr. Cresse's original Direct Testimony.

You will also find a copy of this letter enclosed. Please date-stamp the copy of the letter to indicate that the original was filed and return a copy to me.

If you have any questions regarding this matter, please feel free to contact me. Thank you for your assistance in processing this filing.

Respectfully,

HABEN, CULPEPPER, DUNBAR
& FRENCH, P.A.

Peter M. Dunbar
Peter M. Dunbar

PMD/tmz
1 Enclosures

6 cc: All parties of record

FILED
DS/28
RECORDS

DOCUMENT NUMBER-DATE

01300 FEB-38

FPSC-RECORDS/REPORTING

OK
3
Original

copy to file

**CERTIFICATE OF SERVICE
DOCKET NO. 920260-TL**

I HEREBY CERTIFY that a true and correct copy of the foregoing Revised Direct Testimony of Joseph P. Cresse for Florida Cable Television Association to Replace Direct Testimony Previously Filed on November 16, 1992, has been served by U.S. Mail on this 3rd day of February, 1993, to the following parties of record:

Charles J. Beck
Assistant Public Counsel
Office of the Public Counsel
c/o The Florida Legislature
111 W. Madison St., Rm. 812
Tallahassee, FL 32399-1400

Harris R. Anthony, Esq.
E. Barlow Keener, Esq.
c/o Marshall M. Criser, III
Southern Bell Telephone Co.
150 S. Monroe St., Suite 400
Tallahassee, FL 32301

Richard Melson
Hopping, Boyd, Green & Sams
Post Office Box 6526
Tallahassee, FL 32314

Michael Henry
MCI Telecommunications Corp.
MCI Center
Three Ravinia Drive
Atlanta, GA 30346-2102

Patrick K. Wiggins
Wiggins & Villacorta, P.A.
Post Office Drawer 1657
Tallahassee, Florida 32302

Michael W. Tye
106 East College Ave.
Suite 1410
Tallahassee, FL 32301

Monte Belote
Florida Consumer Action Network
4100 W. Kennedy Blvd. #128
Tampa, Florida 33609

Dan B. Hendrickson
P.O. Box 1201
Tallahassee, FL 32302

The American Association of
Retired Persons
c/o Foley & Lardner
Post Office Box 508
Tallahassee, Florida 32302-0508
Attn: Bill L. Bryant, Jr.

Michael B. Twomey
Assistant Attorney General
Department of Legal Affairs
Room 1603, The Capitol
Tallahassee, Florida 32339-1050

Benjamin H. Dickens, Jr.
Blooston, Mordkofsky,
Jackson & Dickens
2120 L Street, N.W.
Washington, DC 20037

Robin Norton
Division of Communications
Florida Public Service Comm.
101 East Gaines Street
Tallahassee, FL 32399

Mr. Cecil O. Simpson, Jr.
Mr. Peter Q. Nyce, Jr.
Regulatory Law Office
Office of The Judge
Advocate General
Department of the Army
901 North Stuart Street
Arlington, VA 22203-1837

Angela Green
Division of Legal Services
Florida Public Service Comm.
101 East Gaines Street
Tallahassee, FL 32399

Joseph P. Gillan
J.P. Gillan & Associates
Post Office Box 541038
Orlando, FL 32854-1038

Rick Wright
AFAD
Florida Public Service Comm.
101 East Gaines Street
Tallahassee, FL 32301

C. Everett Boyd, Jr.
Ervin, Varn, Jacobs, Odom,
& Ervin, P.A.
Post Office Drawer 1170
Tallahassee, FL 32302

Chanthina R. Bryant
Sprint
3065 Cumberland Circle
Atlanta, GA 30339

Mr. Lance C. Norris, President
Florida Pay Telephone
Association, Inc.
Suite 202
8130 Baymeadows Circle, West
Jacksonville, FL 32256

Laura L. Wilson, Esq.
Messer, Vickers, Caparello,
Madsen & Lewis, P.A.
Post Office Box 1876
Tallahassee, FL 32302-1876

Vicki Gordon Kaufman, Esq.
Lawson, McWhirter,
Grandoff & Reeves
315 South Calhoun Street
Suite 716
Tallahassee, FL 32301


Doug Lackey
BellSouth Telecommunications,
Inc. (Southern Bell Telephone
& Telegraph Company)
4300 Southern Bell Center
Atlanta, GA 30375

Floyd R. Self, Esq.
Messer, Vickers, Caparello,
Madsen, Lewis, Goldman
& Metz, P.A.
Post Office Box 1876
Tallahassee, FL 32308-1876

Mr. Michael Fannon
Cellular One
2735 Capital Circle, NE
Tallahassee, FL 32308

Mr. Charles King
Snavelly, King & Associates, Inc.
1220 L Street, NW
Washington, DC 20005

Douglas S. Metcalf
Communications Consultants, Inc.
Post Office Box 1148
Winter Park, Florida 32790-1148

By: 
PETER M. DUNBAR

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL
FILE COPY

In re: Comprehensive Review of)
the Revenue Requirements and)
Rate Stabilization Plan of)
Southern Bell Telephone and)
Telegraph Company)
_____)

Docket No.: 920260-TL
Filed: February 3, 1993

REVISED DIRECT TESTIMONY

OF

JOSEPH P. CRESSE

FOR

FLORIDA CABLE TELEVISION ASSOCIATION

TO REPLACE DIRECT TESTIMONY

PREVIOUSLY FILED ON NOVEMBER 16, 1992

ACCOUNT NUMBER-DATE

01300 FEB-88

FPSC-RECORDS/REPORTING

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 Docket No. 920260-TL

3 DIRECT TESTIMONY

4 OF

5 JOSEPH P. CRESSE

6 On Behalf of

7 Florida Cable Television Association

8

9 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

10 A. My name is Joseph P. Cresse. My address is P. O.
11 Box 1876, Tallahassee, Florida 32302-1876.

12 Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL
13 BACKGROUND AND EXPERIENCE.

14 A. I am currently employed as a non-lawyer Special
15 Consultant with the law firm of Messer, Vickers,
16 Caparello, Madsen, Lewis, Goldman & Metz, P.A. I
17 graduated from the University of Florida with a
18 B.S.B.A. Major in Accounting in 1950. A copy of my
19 resume is attached as Exhibit JPC-1.

20 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

21 A. I was asked by the Florida Cable Television
22 Association to convey my opinion on several of the
23 issues identified on October 9, 1992 at the Issue
24 Identification Workshop. The issues relate to: (1)
25 the adequacy of the proposed price regulation plan
26 to meet the requirements of section

1 364.036(2)(a)-(g), Florida Statutes; and (2)
2 cross-subsidization. I will utilize the following
3 abbreviations during my testimony:

4 1. "LEC" refers to a local exchange
5 telecommunications company.

6 2. "FCTA" refers to the Florida Cable Television
7 Association.

8 3. "Commission" refers to the Florida Public
9 Service Commission.

10 4. "Staff" refers to the Florida Public Service
11 Commission Staff.

12 5. "Southern Bell" refers to BellSouth
13 Telecommunications, Inc. d/b/a Southern Bell
14 Telephone and Telegraph Company.

15 Q. YOUR TESTIMONY REFERENCES THE TERMS "EFFECTIVE
16 COMPETITION," "SUBJECT TO EFFECTIVE COMPETITION,"
17 "COMPETITIVE," AND "MONOPOLY" SERVICES. ON WHAT
18 BASIS DO YOU DISTINGUISH AMONG THESE TERMS?

19 A. All of these terms are used by the Legislature
20 throughout chapter 364, Florida Statutes. The
21 specific provisions to which I am referring are
22 sections 364.01(3)(c)-(e), 364.338, and 364.3381,
23 Florida Statutes.

24 Section 364.01(3) contains the
25 legislative intent provisions of chapter 364

1 and provides the overriding policy guidance to
2 the Commission. Subsections (3)(c)-(e) state
3 in relevant part:

4 The Commission shall exercise its exclusive
5 jurisdiction in order to:

6
7 (c) Encourage cost-effective technological
8 innovation and competition in the
9 telecommunications industry if doing so will
10 benefit the public by making modern and
11 adequate telecommunications services available
12 at reasonable prices.

13
14 (d) Ensure that all providers of
15 telecommunications services are treated
16 fairly, by preventing anticompetitive behavior
17 and eliminating unnecessary regulatory
18 restraint.

19
20 (e) Recognize the continuing emergence of a
21 competitive telecommunications environment
22 through the flexible regulatory treatment of
23 competitive telecommunications services, where
24 appropriate, if doing so does not reduce the
25 availability of adequate basic local exchange
26 service to all citizens of the state at
27 reasonable and affordable prices, if
28 competitive telecommunications services are
29 not subsidized by monopoly telecommunications
30 services, and if all monopoly services are
31 available to all competitors on a
32 nondiscriminatory basis. [Emphasis supplied.]

33
34 In addition, section 364.338 makes use of the
35 term "subject to effective competition." Sub-
36 section (2) lists a number of factors which the
37 Commission "shall" consider in making a
38 determination whether a service is "subject to
39 effective competition." Subsection (3) further
40 provides in relevant part:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49

(3)(a) If the commission determines, after notice and opportunity to be heard, that a service provided by a local exchange telecommunications company is subject to effective competition, the commission may:

1. Exempt the service from some of the requirements of this chapter and prescribe different regulatory requirements than are otherwise prescribed for a monopoly service; or

2. Require that the competitive service be provided pursuant to a fully separated subsidiary or affiliate.

(b) When authorizing different regulatory requirements pursuant to subparagraph (a)1., the commission:

1. Shall require that the competitive service be provided on a nonseparated basis pursuant to detailed accounting and reporting requirements.

2. Shall require that the competitive service be provided pursuant to such safeguards necessary to ensure that the rates for monopoly services do not subsidize competitive services.

3. Shall require that the competitive service be provided pursuant to anti-competitive safeguards, which may include imputing the price of the monopoly services used in providing a competitive service as a cost of providing such service, or offering the tariff rates for such monopoly services separately and individually and on a nondiscriminatory basis to all persons, including other telecommunications companies.

4. Shall require that the rates for competitive services provided by the local exchange telecommunications company cover the cost of providing the service.

5. May require that the competitive service be provided pursuant to any other

1 requirement that the commission determines is
2 necessary to ensure the protection of the
3 ratepayer.

4
5 Sections 364.3381(1)-(2) provide additional
6 guidance to the Commission specifically with regard
7 to cross-subsidization and state as follows:

8 (1) The price of a competitive telecom-
9 munications service provided by a local
10 exchange telecommunications company shall not
11 be below its cost by use of subsidization from
12 rates paid by customers of monopoly services
13 subject to the jurisdiction of the commission.

14
15 (2) A local exchange telecommunications
16 company which offers both monopoly and
17 competitive telecommunications services shall
18 segregate its intrastate investments and
19 expenses in accordance with allocation
20 methodologies as prescribed by the commission
21 to ensure that competitive telecommunications
22 services are not subsidized by monopoly
23 telecommunications services.

24
25 Finally, I refer to section 364.02(3). This
26 section defines monopoly services as telecom-
27 munications services "for which there is no
28 effective competition, either in fact or by
29 operation of law."

30 Because all of these terms are used in chapter
31 364, the legislative intent can only be carried out
32 by first identifying which LEC services are
33 "effectively competitive," "subject to effective
34 competition," "competitive," and "monopoly." The
35 term "effective competition," as used in chapter

1 364, is a legal and statutory construction rather
2 than purely an economic one. It has its own
3 definitional parameters in relation to the statute.
4 "Effective competition" relates to services
5 experiencing true and fair competition between two
6 or more providers of a functionally equivalent
7 service pursuant to the same terms and conditions.

8 The term "subject to effective competition"
9 means that a particular service has the potential
10 to become effectively competitive. It denotes a
11 lesser state of competition which does not rise to
12 the level of effective competition but can become
13 effectively competitive if given the chance.
14 "Monopoly" services include services where are not
15 functionally or reasonably available from more than
16 one supplier; however, the term can also refer to
17 a competitive service that has not reached the
18 level of effectively competitive or subject to
19 effective competition.

20 "Competitive" services refer to a broad range
21 of services for which there is some competition.
22 Thus, all "effectively competitive" services, all
23 services "subject to effective competition" and
24 even some "monopoly" services fall under this
25 umbrella term. The Legislature recognized that

1 some "monopoly" services are "competitive", i.e.,
2 provided by entities other than the LEC. That is
3 why sections 364.338(6) and 364.3381 establish
4 safeguards for the provisioning of "competitive"
5 services.

6 Q. DO THESE PRINCIPLES PROVIDE A FRAMEWORK WHICH THE
7 COMMISSION COULD FOLLOW IN DETERMINING WHETHER
8 OTHER SERVICES SOUTHERN BELL OFFERS ARE EFFECTIVELY
9 COMPETITIVE OR SUBJECT TO EFFECTIVE COMPETITION AND
10 WHAT TREATMENT SHOULD BE AFFORDED TO SUCH SERVICES?

11 A. Yes. For example, if Southern Bell provided video
12 programming, section 364.338(5), Florida Statutes,
13 requires Southern Bell to provide the service
14 through a separate subsidiary. For this
15 competitive service, the Commission would also need
16 to ensure that Southern Bell's regulated monopoly
17 operation provides monopoly services to competitors
18 in a nondiscriminatory manner under the same rates,
19 terms, and conditions. For example, billing and
20 collection services should be made available to
21 competitors if the LEC provides that service to
22 itself for competitive offerings. Cross-
23 subsidization must also be prevented pursuant to
24 section 364.3381, Florida Statutes.

25 Q. FOCUSING NOW UPON SOUTHERN BELL'S PROPOSED

1 INCENTIVE REGULATION PLAN WHAT, IN YOUR OPINION,
2 ARE THE PROS AND CONS OF THE PLAN? (ISSUE 27)

3 A. First, Southern Bell is proposing a Price
4 Regulation Index ("PRI") composed of an inflation
5 measure, less a productivity offset, plus or minus
6 any exogenous factors. Exogenous factors are
7 defined as those measurable expenses beyond
8 Southern Bell's control and include changes in
9 regulations or statutes, taxes, separations and
10 accounting practices, and adjustments to
11 depreciation rates.

12 Southern Bell has not clarified what types of
13 taxes should be included as exogenous factors.
14 Witness Reid's testimony refers to a federal income
15 tax rate reduction in mid-1987 which reduced
16 Southern Bell's revenue requirements. Southern
17 Bell uses this event as an illustration of an item
18 that would have been quantified and included as a
19 negative factor in the calculation of the
20 authorized rate levels under the proposed plan.
21 Direct Testimony of Walter S. Reid at 19-20.
22 However, no distinction is drawn between the proper
23 treatment of income, property or ad valorem taxes
24 under Southern Bell's proposal. The Commission
25 should consider what approach it should take for

1 each of these items.

2 Second, Southern Bell's proposed plan installs
3 pricing rules for basic and non-basic services.
4 For basic services, a limit is set on annual
5 service category increases of 5%. For non-basic
6 services with non-banded rates, a limit is set on
7 annual service category increases of 20%. This
8 proposal should be rejected. Over the span of four
9 years, the Plan permits a total increase of 21.5%
10 to local flat rates and corresponding reductions on
11 local measured service ("LMS"). Southern Bell's
12 long term goal of having LMS throughout their
13 system could be enhanced by this program without
14 the Commission having determined LMS is in the
15 public interest. Prices for selected nonbasic
16 services could be increased or decreased by over
17 100% in the next 4 years. I believe that delegates
18 too much flexibility to Southern Bell in rate
19 design.

20 Third, for both basic and nonbasic services,
21 Southern Bell proposes that rate changes within the
22 preapproved limits be presumptively valid. Rate
23 increases become effective on 30 days notice. Rate
24 decreases become effective on 15 days notice. This
25 proposal should receive closer Commission scrutiny

1 and careful consideration. Customers of both basic
2 and nonbasic services should be given the
3 opportunity to be heard on price changes before
4 they go into effect. Section 364.05, Florida
5 Statutes, provides in pertinent part:

6 (1) Unless the commission otherwise
7 orders, a change may not be made in any rate
8 . . . except after 60 days' notice to the
9 commission.

10 . . .

11
12
13 (2) The commission, for good cause
14 shown, may allow changes in rates . . .
15 without requiring the 60 days' notice and
16 publication by an order specifying the change
17 to be made, the time when it shall take
18 effect, and the manner in which the change
19 shall be filed and published.

20
21 (3) A change may not be made in any rate
22 . . . prescribed by the commission without its
23 consent or without a hearing, if requested by
24 a substantially affected party prior to the
25 date the rates go into effect

26
27 The provisions of subsection (2) currently grant
28 the Commission authority to forego the 60 day
29 notice period upon good cause shown by Southern
30 Bell. Southern Bell should continue to be required
31 to make such a showing if the notice period is to
32 be waived. Notwithstanding, 60 days is an
33 appropriate and reasonable amount of response time
34 to permit customers the full opportunity to respond
35 to a rate change and Staff the opportunity to

1 analyze proposed changes for consistency with
2 Commission goals.

3 Q. DOES SOUTHERN BELL'S PROPOSED PRICE REGULATION PLAN
4 MEET ALL OF THE REQUIREMENTS SET FORTH IN SECTION
5 364.036(2)(a)-(g), FLORIDA STATUTES? (ISSUE 28)

6 A. No. Southern Bell's proposal fails to meet the
7 requirements of subsections (c) and (f).
8 Therefore, I do not believe that the plan is in the
9 public interest as further required by subsection
10 (a).

11 Q. PLEASE EXPLAIN.

12 A. Section 364.036, Florida Statutes, provides in
13 relevant part:

14 [T]he commission shall ensure that
15 monopoly services provided by local exchange
16 telecommunications companies continue to be
17 regulated effectively to protect consumers of
18 such services, while providing the local
19 exchange telecommunications companies with
20 sufficient incentives to implement new
21 technologies and greater efficiency in
22 operations and productivity, to the benefit of
23 the public.

24
25 (2) In fixing rates for a local exchange
26 telecommunications company, the commission, on
27 its own motion or on petition of the local
28 exchange telecommunications company or an
29 interested party, may establish or adopt
30 alternative methods of regulating such local
31 exchange telecommunications company consistent
32 with the provisions of this section. The
33 commission may implement an alternative method
34 of regulation, after notice and opportunity to
35 be heard, if it first finds that the
36 alternative method of regulation:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

(a) Is consistent with the public interest.

(b) Does not jeopardize the availability of reasonably affordable and reliable telecommunications services.

(c) Provides identifiable benefits to consumers that are not otherwise available under existing regulatory procedures.

(d) Provides effective safeguards to consumers of telecommunications services, including consumers of local exchange access services.

(e) Assures that the rates for monopoly services are just, reasonable, and not unduly discriminatory, and do not yield excessive compensation.

(f) Includes adequate safeguards to assure that the rates for monopoly services do not subsidize competitive services.

(g) Does not jeopardize the ability of the local exchange telecommunications company to provide quality, affordable telecommunications service. [Emphasis supplied.]

Southern Bell's Petition for Order Adopting Plan for Alternative Method of Regulation ("Petition") dated July 15, 1992 alleges that the above criteria have been met. However, the company has not presented any empirical evidence proving this. In fact, what is striking about the plan is the lack of identifiable benefits to consumers. The company points to 4% averaged rate decreases and increased company risks as the primary consumer

1 benefits. But, if the company's earnings fall
2 below the minimum rate of return, the company can
3 still request a rate increase. Southern Bell's
4 plan only allows an opportunity to earn above the
5 range of a fair rate of return with no downside
6 risk.

7 Further, Southern Bell is not able to assure
8 that its plan contains adequate safeguards to
9 ensure that rates for monopoly services do not
10 subsidize competitive services. The company
11 asserts that limitations on the amount that both
12 aggregate and individual prices can be raised in
13 any given year provide a "strong and effective
14 deterrent to cross-subsidization." Petition at 7.
15 Southern Bell's plan also assumes that so long as
16 a competitive service is priced above its
17 incremental cost, then no cross-subsidization
18 occurs. Petition at 7-8. Southern Bell cannot
19 support such claims and assumptions when it has
20 neither identified its competitive services nor
21 provided incremental cost studies for each
22 competitive service. But even more importantly,
23 Southern Bell's long run incremental test for
24 cross-subsidization has not been adopted by the
25 Commission as the correct measure for detecting

1 cross-subsidization as the term is employed in
2 chapter 364 nor should such a test be adopted.
3 Docket No. 910757-TP was initiated for the purpose
4 of investigating the regulatory safeguards required
5 to prevent cross-subsidization by local exchange
6 companies pursuant to chapter 364, Florida
7 Statutes. As discussed later in my testimony, I
8 firmly believe that Southern Bell's assurances
9 against cross-subsidization do not meet the
10 statutory criteria of section 364.3381, Florida
11 Statutes, and will not aid the Commission in
12 implementing the legislative mandate to ensure
13 against cross-subsidization.

14 Because the Plan does not provide adequate
15 assurance against cross-subsidization or
16 identifiable benefits to consumers not otherwise
17 available under existing regulatory procedures, the
18 proposed plan is not consistent with the public
19 interest. Therefore, it also fails the criteria
20 set forth in subsection (2)(a).

21 Q. HOW SHOULD CROSS-SUBSIDY AND ANTICOMPETITIVE
22 BEHAVIOR, AS THE TERMS ARE USED IN CHAPTER 364, BE
23 DEFINED?

24 A. Consistent with section 364.3381, Florida Statutes,
25 and the legislative intent provisions of section

1 364.01(3), Florida Statutes, cross-subsidy or
2 anticompetitive behavior should be defined more
3 broadly than strictly economic terms. Cross-
4 subsidy and/or anticompetitive behavior occurs
5 whenever the regulated LEC provides any benefit to
6 its own competitive business that is does not
7 provide to other telecommunications competitors, or
8 if the regulated monopoly provides any service to
9 itself under more favorable rates, terms and
10 conditions than provided to competitors. Under
11 this definition, examples of cross-subsidy and/or
12 anticompetitive behavior are summarized as follows:

13 1. Losses incurred from LEC competitive
14 services are financially subsidized through
15 revenues from monopoly services (cross-subsidy).

16 2. The LEC monopoly pays in excess of
17 current fair market price for products or services
18 received from its subsidiaries, or from affiliated
19 companies (cross-subsidy).

20 3. The LEC competitive service does not bear
21 its appropriate share of the costs of providing the
22 service, including a pro rata share of overhead,
23 and those costs are instead covered by revenues
24 received from monopoly services (cross-subsidy).

25 4. The LEC monopoly provides service to its

1 own competitive service under rates, terms, and
2 conditions more favorable than those imposed on
3 other companies offering similar competitive
4 service (anti-competitive behavior).

5 5. The LEC monopoly provides services to its
6 own competitive service that the monopoly will not
7 provide to other companies (anti-competitive
8 behavior).

9 Q. SHOULD SOUTHERN BELL BE PERMITTED TO CROSS-
10 SUBSIDIZE THEIR COMPETITIVE OR EFFECTIVELY
11 COMPETITIVE SERVICES? (ISSUE 30A)

12 A. No. Cross-subsidization is detrimental to
13 ratepayers and competitors. The Legislature
14 mandated in chapter 364, Florida Statutes, that the
15 Commission ensure against cross-subsidization of
16 LEC competitive services with monopoly funds.

17 Q. SHOULD SOUTHERN BELL'S BASIC TELEPHONE SERVICE
18 RATES BE BASED ON THE MOST COST EFFECTIVE MEANS OF
19 PROVIDING BASIC TELEPHONE SERVICE? (ISSUE 30B)

20 A. Yes. The term "most cost effective" should be
21 distinguished from the term "most economic." A
22 determination of what is "most cost effective"
23 should be viewed from the customer or ratepayer's
24 perspective. The alternative that costs the
25 ratepayer the least for providing a service would

1 be considered the "most cost effective." The term
2 "most economic" is a broader term that could take
3 into consideration company "costs" and "benefits"
4 not directly related to the ratepayer.

5 The primary criteria to determining whether a
6 service has been provided in the "most cost
7 effective" means obtainable is that the service
8 must be provided to the ratepayers in the least
9 costly manner possible. Making this determination
10 requires a review of the various alternatives
11 available to provide basic service. A reasonable
12 guide would be that used by the Commission when
13 evaluating electric utilities, wherein the
14 Commission determined that the proposed capacity is
15 the "most cost effective" alternative. The
16 Commission should also consider the quality of the
17 services being provided.

18 This approach to the establishment of rates
19 provides an incentive to Southern Bell. If
20 recognized by its peers and the Commission as being
21 the most cost effective, the company earns a fair
22 rate of return on its investment, achieves greater
23 customer satisfaction and, given proper recognition
24 by regulators, earns more for its shareholders than
25 less efficient companies.

1 Q. SHOULD SOUTHERN BELL SEGREGATE ITS INTRASTATE
2 INVESTMENTS AND EXPENSES IN ACCORDANCE WITH AN
3 ALLOCATION METHODOLOGY AS PRESCRIBED BY THE
4 COMMISSION TO ENSURE THAT COMPETITIVE
5 TELECOMMUNICATIONS SERVICES ARE NOT SUBSIDIZED BY
6 MONOPOLY TELECOMMUNICATIONS SERVICES? (ISSUE 30C)

7 A. Yes. As previously stated, section 364.3381(2),
8 Florida Statutes, requires a telecommunications
9 company offering both monopoly and competitive
10 telecommunications services to segregate its
11 intrastate investments and expenses in accordance
12 with allocation methodologies as prescribed by the
13 Commission. This helps to ensure that competitive
14 telecommunications services are not subsidized by
15 monopoly telecommunications services.

16 Section 364.3381, Florida Statutes, reflects
17 the fundamental intent of the Legislature to
18 prevent the improper cross-subsidization of LEC
19 competitive services with funds derived from
20 monopoly rates. In stating this goal, the
21 Legislature has provided the Commission with the
22 analysis necessary to carry out this policy.
23 First, the Legislature has drawn a distinction
24 between the "price" of a service and its "cost."
25 Subsection (1) requires that the price of a LEC

1 competitive service shall not be below its cost by
2 use of subsidization from monopoly rates. The
3 terms "price" and "cost" are not specifically
4 defined in chapter 364, Florida Statutes. However,
5 section 364.3381(2), read in conjunction with
6 section 364.3381(1), requires use of the LEC's
7 books and records in determining what a competitive
8 service costs. Subsection (2) requires the LEC to
9 "segregate intrastate investments and expenses" in
10 order to ensure that competitive telecommunications
11 services are not subsidized by monopoly
12 telecommunications services. Investment and
13 expenses logically include those costs reflected in
14 the LEC's current regulated, intrastate accounts
15 along with a pro rata allocation of overhead and
16 administrative expense to each competitive service.

17 Additionally, subsection (1) prohibits LEC
18 cross-subsidization of each competitive service by
19 monopoly revenues. Subsection (1) specifically
20 states that "a competitive service" shall not be
21 priced below its cost. As a result, the
22 determination of whether cross-subsidization occurs
23 must be made on a competitive service-by-service
24 basis. The fact that a LEC's competitive services
25 as a whole cover their total cost is insufficient

1 to meet the requirements of this subsection.

2 In sum, section 364.3381 provides a method of
3 ascertaining the cost of a particular competitive
4 service. If a LEC chooses to offer a competitive
5 service and to operate it out of the monopoly
6 business, subsection (2) requires the LEC to
7 segregate all of its intrastate investments and
8 expenses in accordance with an embedded cost
9 methodology which: (1) ties back to the books and
10 records of the company, and (2) properly allocates
11 investment and expense for all monopoly and each
12 competitive service.

13 Q. HAS THE COMMISSION PRESCRIBED AN ALLOCATION
14 METHODOLOGY TO ENSURE THAT COMPETITIVE
15 TELECOMMUNICATIONS SERVICES ARE NOT SUBSIDIZED BY
16 MONOPOLY TELECOMMUNICATIONS SERVICES? (ISSUE 30D)

17 A. No. The goal of Docket No. 900633-TL is the
18 development of a local exchange company cost study
19 methodology. The Commission adopted in principle
20 a functional building block approach for
21 determining price floors for specific services and
22 found that both incremental and embedded costing
23 approaches should be examined in that docket.
24 Order No. 24910. While some progress has been
25 made, no costing methodology has been developed or

1 approved by the Commission.

2 Q. HAS THE REPLACEMENT OF COPPER WITH FIBER SINCE THE
3 LAST DEPRECIATION STUDY BEEN ACCOMPLISHED IN A COST
4 EFFECTIVE MANNER FOR ADEQUATE BASIC TELEPHONE
5 SERVICE? (ISSUE 30E)

6 A. Southern Bell has presented no evidence that its
7 replacement of copper with fiber has been
8 accomplished in a cost-effective manner for basic
9 telephone service. In the depreciation study
10 docket (No. 890256-TL), Southern Bell assured the
11 Commission its depreciation case was,

12 based on the deployment of the overall
13 architecture including fiber deployment to the
14 extent that it is less costly than its copper
15 equivalent. [Emphasis supplied.] Snelling,
16 Tr. 1015.

17 In making a replacement decision, Southern Bell
18 further stated its intent not to,

19 replace anything ever unless it's economic to
20 our best judgement, following our best
21 parameters, carefully scrutinized, properly
22 approved, and then reviewed as to the result.
23 If the result does not turn out as we expected
24 on a micro and macro basis, then we can't do
25 it. Snelling, Tr. 990

26 This intention was also expressed when the
27 following question was posed during
28 cross-examination:

29 Q. Does that indicate your view that the
30 economics of providing present telephone
31 services are the criterion for

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

demonstrating whether or not the replacement technologies are cost effective and have an impact on depreciation rates?

A. That's absolutely correct. Hight, Tr. 384-385. [Emphasis supplied.]

Assuming that Southern Bell has performed such analyses with respect to its deployment of fiber, the cost data produced in this docket to date is devoid of such information. Without this information, the cost-effectiveness of replacing copper with fiber cannot be assured and no ratepayer benefit can be demonstrated as required by section 364.01(3)(c), Florida Statutes.

Q. DOES THAT CONCLUDE YOUR PREFILED DIRECT TESTIMONY?

A. Yes, it does. However, in the depreciation study docket referenced above, the Commission ordered Southern Bell to establish three subaccounts for interoffice, feeder and distribution in each of the Aerial, Underground and Buried fiber cable accounts. Order No. 23132 issued June 29, 1990 at 10-11. FCTA has not yet been able to examine these subaccounts for accuracy and reliability, but FCTA intends to pursue this issue through depositions of Southern Bell witnesses. I would therefore reserve the right to file additional testimony, if necessary, upon conclusion of the discovery phase

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

of this proceeding.

s\fctatest.jpg

JOSEPH P. CRESSE

Presently employed as a non-lawyer Special Consultant with the law firm of Messer, Vickers, Caparello, Madsen, Lewis, Goldman & Metz P.A. in Tallahassee, Florida; former Chairman of the Public Service Commission having served seven years on the Commission; former State Budget Director for State of Florida under Governor Reubin Askew, and former Assistant Secretary for the Department of Administration, State of Florida.

Resides in Tallahassee, Florida, with wife, Beverly; has two children; born in Indiana, and attended public schools in Frostproof, Florida; attended University of Florida - graduated in 1950 B. S. B. A. Major in Accounting; served in the U. S. Army as Staff Sergeant; member of Beta Alpha PSI Fraternity.

Career accomplishments include recipient of Florida Senate and House Resolution of Commendation; Administrator of the year in 1975; recipient of University of Florida Distinguished Alumnus Award; served on the Executive Committee of National Assn. of State Budget Officers, National Assn. of Regulatory Utility Commissioners, and President of the Southeastern Assn. of Regulatory Utility Commissioners; assisted in passage and implementation of the Career Service System, State of Florida; assisted in the implementation the Governmental Reorganization Act; implementation of program budgeting and computerizing substantial budgeting information; assisted in development of Education funding program for the State of Florida; assisted in development of financial plan to reduce appropriations to operate within available funds when revenue of the State was approximately 10% less than anticipated; assisted the Governor and Legislature during Special 1978 Legislative Session in drafting and passing legislation protecting title to state sovereign lands; served as member of the Florida Advisory Council on Intergovernmental Relations; appointed by Governor as member of the Deferred Compensation Advisory Committee and elected chairman; chaired a Task Force which developed financial and organizational plans to dismantle the Inter-American Center Authority with real estate assets of the Authority preserved for public use; appointed by Governor to state team which successfully negotiated a major settlement involving oil, gas and mineral rights on state-owned submerged lands; appointed to task force overseeing litigation, State v. Mobil Oil, Sovereign Lands; member Growth Management Committee; appointed by Governor and co-chaired Telecommunications Task Force. In 1985 received the National Governor's Association award for Distinguished Service to State Government. Retired from State Government December 1985 to assume present position with Messer, Vickers law firm. Since 1985 I have been engaged in regulatory consulting work with both utilities and non-utilities. I lecture at Indiana University twice a year, and have testified before the Georgia, Florida and South Carolina Regulatory Commissions.